

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MICHAEL WAYNE MATHISON,

Plaintiff,

v.

ZACHARY SHANNON, et al.,

Defendants.

1:24-cv-00427-KES-SAB

ORDER VACATING FINDINGS AND  
RECOMMENDATIONS (ECF No. 4)

ORDER DISREGARDING DOCUMENT  
FILED BY NON-ATTORNEY ON  
PLAINTIFF'S BEHALF (ECF No. 6)

ORDERING PLAINTIFF TO SUBMIT  
APPLICATION TO PROCEED IN FORMA  
PAUPERIS OR PAY FILING FEE WITHIN 45  
DAYS

**45 DAY DEADLINE**

On March 29, 2024, a non-attorney signed and filed a complaint and application to proceed *in forma pauperis* on behalf of Plaintiff. (ECF No. 1.) On April 19, 2024, the Court issued findings and recommendations recommending that the action be dismissed because neither filing was signed by Plaintiff or an attorney. (ECF No. 4.) The Court afforded Plaintiff thirty days to file objections or, alternatively, to cure the deficiencies in his complaint. (*Id.* at 2.)

On May 3, 2024, a notice was filed by Raquel Hernandez on behalf of Michael Wayne Mathison. (ECF No. 6.) As stated in the Court's findings and recommendations, Ms. Hernandez is not an attorney, may not represent Plaintiff in this action, and may not sign any filings on Mr. Mathison's behalf. (ECF No. 4 (citing Johns v. County of San Diego, 114 F.3d 874, 877 (9th Cir. 1997) (a non-lawyer may not represent anyone but himself or herself in court)).) The Court shall disregard the notice filed by Ms. Hernandez.

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1 On May 8, 2024, Plaintiff filed a first amended complaint bearing his signature. (ECF No.  
2 7.) Plaintiff also filed objections to the findings and recommendations. (Id. at 12.) Therein,  
3 Plaintiff stated he has appointed Ms. Hernandez as his power of attorney to take care of his legal  
4 or financial affairs by signing for him with his knowledge and authorization. (ECF No. 7 at 12.)  
5 Plaintiff confirms he will be proceeding pro se in this action and apologizes for the  
6 miscommunication. (Id.)

7 As stated in the Court's findings and recommendations, a non-attorney may not sign any  
8 document filed in this action on Plaintiff's behalf, regardless of whether she has been appointed  
9 power of attorney or that she signs with Plaintiff's knowledge or authorization. (ECF No. 4) See  
10 Fed. R. Civ. P. 11(a), ("[e]very pleading, written motion, and other paper must be signed by at  
11 least one attorney of record in the attorney's name—or by a party *personally* if the party is  
12 unrepresented") (emphasis added); see also E.D. Cal. L.R. 183(a) (requiring that any individual  
13 who is representing himself without an attorney must appear personally or by courtesy  
14 appearance by another attorney admitted to the Bar of this Court and *may not delegate that duty*  
15 *to any other individual*, including a spouse) (emphasis added). Plaintiff is cautioned that any  
16 further documents signed by Ms. Hernandez in this action will be disregarded.

17 Turning to Plaintiff's first amended complaint, Plaintiff is a state prisoner proceeding pro  
18 se in a civil rights action pursuant to 42 U.S.C. § 1983. However, Plaintiff has not paid the  
19 \$405.00 filing fee, or submitted an application to proceed *in forma pauperis* bearing his signature  
20 pursuant to 28 U.S.C. § 1915. The Court shall therefore order Plaintiff file an application to  
21 proceed *in forma pauperis*, or, alternatively, pay the filing fee in this action.

22 Accordingly, IT IS HEREBY ORDERED that:

- 23 1. The findings and recommendations issued on April 19, 2024 (ECF No. 4), are  
24 VACATED;
- 25 2. The notice signed by a non-attorney on Plaintiff's behalf (ECF No. 6) is  
26 DISREGARDED;
- 27 3. The Clerk of the Court is DIRECTED to forward an *in forma pauperis* application  
28 to Plaintiff;

4. Within forty-five (45) days of the date of service of this order, Plaintiff shall submit an application to proceed *in forma pauperis*, completed and signed by Plaintiff, or in the alternative, pay the \$405.00 filing fee for this action;
5. No requests for extension will be granted without a showing of good cause; and
6. Failure to comply with this order will result in dismissal of this action.

IT IS SO ORDERED.

Dated: May 10, 2024



UNITED STATES MAGISTRATE JUDGE